



UNITED STATES PATENT AND TRADEMARK OFFICE

2008 26 2003

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

George S. Blasiak
Wall Marjama & Bilinski
Suite 400
101 South Salina Street
Syracuse, NY 13202

Paper No. 23

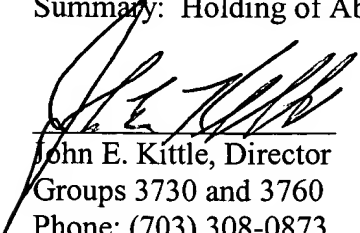
In re Application of	:	DECISION ON PETITION
Ervin Goldfain et al	:	TO WITHDRAW
Serial No. : 09/862,636	:	HOLDING OF
Filed : May 22, 2001	:	ABANDONMENT
For : Eye Viewing Device Comprising Eyepiece and	:	
Video Capture Optics	:	

This is a decision on petitioner's request filed May 4, 2004, to review the holding of abandonment mailed March 31, 2004, for failure to pay the issue fee as required in the Notice of Allowability and the Notice of Allowance and Fee(s) Due mailed November 14, 2003. The basis for the request is that applicant did not receive the communication mailed November 14, 2003. There is no fee required for this petition.

In order to overcome the presumption of delivery of an Office action, a practitioner must submit the following: (1) a statement from the practitioner stating that the Office action was not received by practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket record indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received and docketed. See 1156 OG 53.

The request filed May 4, 2004 includes all the above elements. The request is therefore GRANTED and the holding of abandonment withdrawn. Since with the instant request, a Request for Continued Prosecution (RCE) was filed, upon the mailing of this decision, rather than remailing the Notice of Allowability and Notice of Allowance and Fee(s) Due, the application will be forwarded to the Legal Instruments Examiner for entry and processing of the RCE, and thereafter to the examiner for consideration of the RCE.

Summary: Holding of Abandonment Withdrawn.


John E. Kittle, Director
Groups 3730 and 3760
Phone: (703) 308-0873

ak/5/24/04